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Administrative Review Procedures For the Child and Adult Care Food Program (CACFP)

- A. *Institutions participating in the Idaho CACFP may request an administrative review for the following actions, 7CFR 226.6(k)(2)(i-xii) refers to a complete listing of actions that are appealable:*
1. Denial of a new or renewing institution's application for participation;
 2. Denial of an application submitted by a sponsoring organization on behalf of a facility;
 3. Proposed termination of an institution's agreement;
 4. Proposed disqualification of a responsible principal or responsible individual;
 5. Suspension of an institution's participation
 6. Denial of an institution's application for start-up or expansion payments 7 CFR 226.7(h);
 7. Denial of a request for an advance payment;
 8. Demand of all or part of an advance in excess of a claim under 7 CFR 226.10(b)(3);
 9. Denial of all or part of an institution's claim for reimbursement 7 CFR 226.10(f) and 7 CFR 226.14(a);
 10. Denial by the SDE not to forward to FNS a request by an institution for payment of a late claim or an upward adjustment to a claim except under 7 CFR 226.10(e);
 11. Demand for the remittance of an overpayment; and
 12. Any other action of the State Agency affecting an institution's participation or its claim for reimbursement.
- B. *Notwithstanding the provisions of 7 CFR 226.6(k)(2)(i-xii) above, institutions participating in the Idaho CACFP may not request an administrative review of the following actions, 7 CFR 226.6(k)(3) refers to a complete listing of actions that are not subject to administrative review:*
1. FNS decisions on claim deadline exceptions and requests for upward adjustments to a claim.
 2. A determination that an institution is seriously deficient;
 3. The SA determination that corrective action was not complete and permanent;
 4. Disqualification of an institution or a responsible principal or responsible individual, and the subsequent placement on the State Department of Education (SDE) list and the Nation Disqualified List; or
 5. Termination of a participating institution's agreement, including termination of a participating institution's agreement based on the disqualification of the institution by any publicly funded program;
 6. The SA or FNS's decision that an institution's corrective action is inadequate to be removed from the National Disqualification List (NDL); and
 7. The SA's refusal to consider institutions application to participate when either the institution or one of its principals is on the NDL, or the SA's refusal to consider an application submitted by a sponsoring organization on behalf of a sponsored facility that is on the NDL.
- C. *Except where the abbreviated administrative review procedures apply as set forth below, administrative reviews will be conducted as follows:*
1. The SDE must give notice of action being taken or proposed, the basis for the action, and the procedures under which the institution and the responsible principals or responsible individuals may request an administrative review of the action. Notice shall be given to the institution's executive director and chairperson of the board of directors and the responsible principals and responsible individuals by certified mail, return receipt requested and shall include a statement that the institution has the right to an administrative review. As used herein, "Appellant" means a participating institution or agency, or its responsible principals or responsible individuals, as appropriate under the circumstances.

2. The written request for an administrative review shall be filed by the appellant not later than 15 calendar days from the date the appellant received the notice of action, and the State shall acknowledge the receipt of the request for appeal within 10 calendar days. The written request must include the specific notice of action from the SDE the appellant is refuting;
3. The appellant may refute the findings contained in the notice of action in person or by submitting written documentation to the administrative review official. In order to be considered, written documentation must be filed with the review official not later than 30 calendar days after the appellant received the notice of action. The appellant may retain legal counsel, or may be represented by another person. A hearing will be held by the review official in addition to, or in lieu of, a review of written information submitted by the appellant only if the appellant so specifies in the letter of request for review. Failure of the appellant institution's representative to appear at a scheduled hearing shall constitute the appellant institution's waive the right to a personal appearance before the review official, unless the review official agrees to reschedule the hearing. A representative of the State Agency shall be allowed to attend the hearing to respond to the appellant's testimony and to answer questions posed by the review official;
4. If the appellant has requested a hearing, the appellant and the State Agency shall be provided with at least 10 calendar days advance written notice, sent by certified mail, return receipt requested, of the time and place of the hearing;
5. Any information on which the State Agency's action was based will be available to the appellant for inspection from the date of receipt of the request for review;
6. The review official shall be an independent and impartial official other than, and not accountable to, any person authorized to make decisions that are subject to appeal under the provisions of the section;
7. The review official shall make a determination based on information provided by the State Agency and the appellant, and on Program regulations;
8. Within 60 calendar days of the State Agency's receipt of the request for review, the review official shall inform the State Agency and the appellant of the determination of the review;
9. The State Agency's action shall remain in effect during the appeal process. However, participating institutions and facilities may continue to operate under the Program during an appeal of termination, unless the action is based on imminent dangers to the health or welfare of children. If the institution or facility has been terminated for this reason, the State Agency shall so specify in its notice of action.
10. The determination by the State review official is the final administrative determination to be afforded to the appellant;
11. In cases where an appeal results in the dismissal of a claim against an institution which was asserted by the State Agency based upon Federal audit findings, FNS may assert a claim against the State Agency in accordance with the procedures outline in Part 266.14(c)
12. *Abbreviated Appeals Procedure: 7 CFR 226.6(9)* – The State Agency must limit the appeals to a review of written submissions concerning the accuracy of the

State Agency's determination if the application was denied or the State Agency proposes to terminate the institution's agreement because:

- i. The Information submitted on the application was false (see 7 CFR 226 paragraphs (c)(1)(ii)(A), (c)(2)(ii)(A), (c)(3)(ii)(A) of this sections);
- ii. The institution, one of its sponsored facilities, or one of the principals of the institution or its facilities is on the National Disqualified list (see paragraph (b)(12) of this section);
- iii. The institution, one of its sponsored facilities, or one of the principals of the institution or its facilities is ineligible to participate in any other publicly funded program by reason of violation of the requirements of the program (see paragraph (b)(13) and (c)(3)(ii)(T) of this section).
- iv. The institution, one of its sponsored facilities, or one of the principals of the institution or its facilities has been convicted for any activity that indicates a lack of business integrity (see paragraphs (b)(14) and (c)(3)(ii)(T) of this section).

¹ "Notice of action" is the letter received by the sponsor from the State agency notifying them of the appealable action. Examples of "notice of action" include fiscal action, denial, and termination letters. For questions, please contact the review official or the State agency.

Administrative Reviews (Appeals) must be directed to:

Brandon Phillips, Financial Specialist Senior
Public School Finance
State Department of Education
PO Box 83720
Boise, Idaho 83720-0027
(208) 332-6832
E-mail: bcphillips@sde.idaho.gov

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- (1) mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410;
- (2) fax: (202) 690-7442; or
- (3) email: program.intake@usda.gov.

USDA Child Nutrition Programs recognize the following protected classes: race, color, national origin, sex, age, and disability.

This institution is an equal opportunity provider.